

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACK WILLIAM MORGAN,

Defendant.

Case No. 2:17-cr-00064-KJD-GWF

ORDER

This matter is before the Court on Defendant's Motion to Subpoena (ECF No. 36) and Motion for Release of Phone (ECF No. 37), filed on April 21, 2017.


Defendant requests to subpoena three witnesses for trial: Anthony Herman Priebe, his wife, and Emily Johnson. Federal Rule of Criminal Procedure ("FRCP") 17(b) requires that a defendant show "the necessity of the witness's presence for an adequate defense" in order for the Court to order that the subpoena be issued. Defendant has not done so here. Therefore, the Court will deny Defendant's motion without prejudice. Defendant may refile his motion and provide the Court with an adequate showing of why each witness he seeks to subpoena is necessary for an adequate defense. Defendant is advised to file his motion **under seal**. Defendant does not need to disclose his trial strategy for subpoenaing these witnesses to the Government—only the Court. In regard to Defendant's motion for release of his phone, the Court will await the Government's response and issue a ruling thereafter. Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Subpoena (ECF No. 36) is **denied** without prejudice. Defendant may refile his motion under seal and provide the Court with the

...

1 requisite showing of necessity pursuant to FRCP 17(b). In addition, Defendant must include the
2 proposed subpoenas for each witness with his amended motion.

3 DATED this 26th day of April, 2017.

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6 GEORGE FOLEY, JR.
7 United States Magistrate Judge
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